IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

TUESDAY, THE 7TH DAY OF JULY 2015/16TH ASHADHA, 1937

WP(C).No. 19444 of 2015 (E)

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PETITIONER(S) :

SANADKUMAR P.,
PAYYANAT HOUSE, KIZHAYUR, PATTAMBI,
PALAKKAD DISTRICT.

BY ADV. SRI.I.DINESH MENON

RESPONDENT(S) :
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1. **THE REGIONAL TRANSPORT AUTHORITY,**
   PALAKKAD- 678 001.

2. **THE SECRETARY,**
   REGIONAL TRANSPORT AUTHORITY,
   PALAKKAD- 678 001.

BY GOVERNMENT PLEADER SMT.K.A.SANJEETHA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07-07-2015, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

Msd.

WP(C).No. 19444 of 2015 (E)
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APPENDIX

PETITIONER(S)' EXHIBITS

P1: **TRUE COPY OF THE REGULAR PERMIT OF THE PETITIONER.**

P2: **TRUE COPY OF THE APPLICATION FOR RENEWAL DATED 30/04/2015 WITH CHALAN.**

P3: **TRUE COPY OF THE APPLICATION FOR REPLACEMENT DATED 05/03/2015 WITH CHALAN.**

P4: **TRUE COPY OF THE APPLICATION FOR TEMPORARY PERMIT DATED 18.05.2015 WITH CHALAN.**

P5: **TRUE COPY OF THE DEMAND NOTICE DATED 26/03/2015.**

P6: **TRUE COPY OF THE APPEAL DATED 23/04/2015.**

P7: **TRUE COPY OF THE JUDGMENT IN W.P.(C).NO.13611/2015 DATED 08/05/2015.**

P8: **TRUE COPY OF THE JUDGMENT IN W.P.(C).NO.17632/2015 DATED 17/06/2015.**

RESPONDENT(S)' EXHIBITS :

NIL

//TRUE COPY//

P.S.TO JUDGE.

Msd.

A.V.RAMAKRISHNA PILLAI, J.

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W.P(C) No.19444 of 2015

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Dated this the 7th day of July, 2015

JUDGMENT

The petitioner has come up before this Court seeking a direction to the respondents to issue temporary permit under section 87(1)(c) of the Motor Vehicles Act, pending renewal and replacement applications.

2. The petitioner is the permit holder on the route between Karekkad, Poilur and Shoranur in respect of stage carriage bearing No.KL-16 A 3360. The permit is valid till 21.5.2015. The petitioner alleges that application for renewal has been submitted in time. Along with the renewal application, replacement as well as temporary permit application under Section 87(1)(d) of the Motor Vehicles Act was submitted. However, none of the applications were processed with as there is a dispute relating to payment of tax during the period for which the permit was not in existence and prior to the period the vehicle was operational, demand notice was made against the petitioner; it is alleged.

3. As the application, statutory appeal was preferred As the appeal was not processed, the petitioner also moved this Court by preferring W.P(C) No.13611 of 2011 wherein all coercive proceedings are directed to kept in abeyance till the disposal of the appeal. The petitioner alleges that the appeal is still pending. However, the respondents are not considering the applications. It is with this background, the petitioner has come up before this Court.

4. In the statement filed by the second respondent, it was contended that the petitioner is the operator of stage carriage bearing No.KL-16/A 3360, operating on the intra-district route between Karakkad, Poilur and Shornur. The regular permit in respect of the vehicle is 9/1044/2000 and was valid upto 21.05.2015. On 05.03.2015, the petitioner produced an application for replacement of stage carriage KL-16/A-3360 by a later model vehicle KL-11/U-8010. Subsequently applications for renewal and for issue of renewal pending temporary permit under Section 87(1)d were also submitted by the permit holder on 29.04.2015 and 18.05.2015 respectively. These 3 applications are

pending before this authority since a huge amount of ₹3,72,432/-by way of tax arrears in respect of the route KL-16/A-3360 is not yet cleared by the permit holder. According to this respondent, the G-Form application filed by the permit holder is only for 01.01.2011 to 31.12.2011 and for the period from 01.01.2015 to 31.12.2015.

5. It is further stated that as per Section 15 of the Motor Vehicles Taxation Act, if the tax due in respect of a transport vehicle is not paid within the prescribed period, the validity of the permit for that vehicle should be ineffective from the date of expiry of the said period until such tune as the tax is actually paid. The petitioner filed Ext.P6 appeal against the demanding of tax arrears in respect of the vehicle before the Deputy Transport Commissioner and Ext.P7 judgment of this Court in W.P(C) No.13611 of 2015 dated 8.5.2015 directs the first respondent to consider the appeal within a period of two months after hearing the petitioner and to keep the recovery proceedings in abeyance till the disposal of the appeal.

6. Arguments have been heard.

7. Though it was strenuously argued by the learned Senior Government Pleader that the tax in respect of the petitioner's vehicle is due and therefore, he is not entitled for the temporary permit, the learned counsel for the petitioner would submit that the very liability of the petitioner is subjected to challenge in an appeal now pending before the Deputy Transport Commissioner as stated in Ext.P7.

8. Therefore, this Court is of the view that there would be a direction to the respondents to issue temporary permit as prayed for, subject to the final outcome of the appeal.

In the result, the writ petition is disposed of directing the 2nd respondent to issue temporary permit to the petitioner which shall be subject to the final outcome of the appeal now pending before the Deputy Transport Commissioner as stated in Ext.P7.

Sd/-
A.V.RAMAKRISHNA PILLAI
JUDGE

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